

Date of decision: April 11,1996

For Approval and Signature:

The Hon'ble Mr.Justice N.J.Pandya

The Hon'ble Mr.Justice A.R.Dave

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or a..

thereunder?
5. Whether it is to be circulated to the Civil Judge?

Mr.H.S.Shah, L.A. for the appellant
Mr.Brahmbhatt, L.A. for the respondents

Coram: N.J.Pandya & A.R.Dave,JJ.
April 11, 1996

ORAL JUDGMENT (Per N.J.Pandya,J.)

This appeal came to be admitted on 5-2-1996. In response to the Rule issued in Civil Application No.4129 of 1995 L.A. Mr.Brahmbhatt appears for the original claimants-respondents.

2. The appeal arises out of the judgment and award given in M.A.C.Petition No.265 of 1993 on 16-3-1995 by the learned Judge of Auxiliary Tribunal no.3 of the City Civil Court, Ahmedabad. The award is hopelessly exaggerated. The learned Judge has overlooked the fact that the claimants are grown up brothers of the deceased and when they are themselves shown to be earning they cannot be said to be dependents. The only case for dependency to be considered is that of minor Shubhalaxmi, claimant no.3, who is respondent at that number in the present appeal. However, we are not required to go into it because, the appellant ST Corporation has restricted its appeal to the extent of Rs.50,000/-. Mr.Brahmbhatt, appearing for the original claimants agrees to the final disposal of the appeal and accordingly it is being disposed of by this judgment. He readily concedes that sum of Rs.50,000/- may be deducted from the amount awarded by the Tribunal. Had the appeal been against the entire amount awarded, we would have certainly entered into the question of correctness of the award, because, as stated earlier, in our opinion, the amount awarded by the Tribunal Judge is very much on higher side and the fact of respondents 1 & 2 not likely to be the dependents of the deceased, in our opinion, has been totally lost sight of.

3. Under the circumstances, the appeal is allowed as prayed for, that is to say, the amount awarded by the Tribunal Rs.2,12,000/- is reduced by Rs.50,000/-and accordingly, the amount awarded to the claimants would come to Rs.1,62,000/-. Rest of the order of the Tribunal is kept as it is. The appeal is disposed of accordingly.
